

**Secretary's Order No.: 2011-A-0046**

**RE: Approving Final Amendment to 7 DE Admin. Code 1138,  
Emission Standards for Hazardous Air Pollutants for Source Categories,  
Section 8.0: "Facility-Wide Requirements for  
Halogenated Solvent Cleaning Operations".**

**Date of Issuance: November 16, 2011**

**Effective Date of the Amendment: December 11, 2011**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") the following findings, reasons and conclusions are entered as an Order of the Secretary in the above-referenced rulemaking proceeding.

#### **Background and Procedural History**

This Order considers the proposed regulatory amendments to 7 DE Admin. Code 1138, Emission Standards for Hazardous Air Pollutants for Source Categories, Section 8.0, "Facility-Wide Requirements for Halogenated Solvent Cleaning Operations". In 2001, Delaware adopted by reference the federal Maximum Achievable Control Technology (MACT) standard applicable to halogenated solvent cleaning operations (40 CFR Part 63, Subpart T) as Section 8.0 of Regulation 1138. Since that initial adoption, the U.S. Environmental Protection Agency (EPA) has revised this federal MACT

standard several times. The most significant of these revisions was the adoption of facility-wide 12-month rolling total halogenated solvent emission limits (72 FR 25138, May 3, 2007). This more stringent requirement was incorporated into the federal MACT standard after the EPA determined that, following the full implementation of the MACT requirements, the original MACT requirements did not protect the public's health with an ample margin of safety, as required under the Clean Air Act.

Delaware is proposing to amend Section 8.0 of Regulation 1138 by adding the facility-wide emission limits and their associated monitoring, recordkeeping and reporting requirements that the EPA promulgated on May 3, 2007. The Department is proposing these revisions to existing Regulation 1138, Section 8.0, to assist the affected facilities in (1) tracking their HAP emissions; and (2) in documenting their ongoing compliance with the risk-based emission limits.

The Department's Air Quality Management (AQM) Section of the Division of Air Quality commenced the regulatory development process with Start Action Notice 2010-24. The Department published the proposed regulatory amendments in the August 1, 2011 *Delaware Register of Regulation* and held a public hearing on August 24, 2011. The Department's presiding hearing officer, Lisa A. Vest, prepared a Hearing Officer's Report dated November 10, 2011 (Report). The Report recommends certain findings and the adoption of the proposed Amendment as attached to the Report as Appendix A.

### **Findings and Discussion**

I find that the proposed Amendment is well-supported by the record developed by the Department, and adopt the Report to the extent it is consistent with this Order. The Department's experts developed the record and drafted the proposed Amendment. It

should be noted that, throughout the entire regulatory development process regarding this promulgation, the Department received no public comment from the regulated community, as noted in the Report.

I find that the Department's experts in the AQM Section of the DAWM fully developed the record to support adoption of these Amendments. With the adoption of the regulation amendment to 7 DE Admin. Code 1138, Emission Standards for Hazardous Air Pollutants for Source Categories, Section 8.0, "Facility-Wide Requirements for Halogenated Solvent Cleaning Operations", Delaware will be able to assist affected facilities in tracking their HAP emissions and in documenting their ongoing compliance with risk-based emission limits by adding facility-wide emission limits and their associated monitoring, recordkeeping and reporting requirements, as promulgated by the EPA on May 3, 2007. In doing so, Delaware will be enabled to provide increased protection for Delaware citizens by strengthening the existing MACT standards to protect public health with an ample margin of safety.

In conclusion, the following findings and conclusions are entered:

- 1.) The Department has jurisdiction under its statutory authority to issue an Order adopting these proposed Amendments as final;
- 2.) The Department provided adequate public notice of the proposed Amendment, and provided the public with an adequate opportunity to comment on the proposed Amendment, including at a public hearing;
- 3.) The Department held a public hearing on August 24, 2011 on the proposed Amendment in order to consider public comments before making any final decision concerning this matter;

4) The Department's Hearing Officer's Report, including its recommended record and the recommended *revised* Amendments as set forth in Appendix A, are adopted to provide additional reasons and findings for this Order;

5.) The recommended *revised* Amendments does not reflect any substantive change from the proposed regulation Amendment as published in the August 1, 2011, *Delaware Register of Regulations*;

6.) The recommended *revised* Amendments should be adopted as final regulation Amendments because Delaware will then be enabled to (1) assist the affected facilities in tracking their HAP emissions and in documenting their ongoing compliance with risk-based emission limits; and to (2) provide increased protection for Delaware citizens and strengthen the existing MACT standards to protect public health with an ample margin of safety; and

7.) The Department shall submit this Order approving the final regulation to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.

/s/ Collin P. O'Mara  
Collin P. O'Mara  
Secretary